

FILED  
SCRANTON

AUG 24 2011

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIADAWN STAUB,  
Plaintiff

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,  
DefendantPER M. E. P.  
DEPUTY CLERK

CIVIL ACTION NO. 3:11-153

(JUDGE NEALON)

(MAGISTRATE JUDGE CARLSON)

**MEMORANDUM and ORDER**

On January 21, 2011, Plaintiff, Dawn Staub, filed a complaint seeking review of the denial of her application for disability and disability insurance benefits. (Doc. 1). A Report was issued by United States Magistrate Judge Martin C. Carlson on August 3, 2011 recommending that the case be remanded to the Commissioner for further consideration. (Doc. 13). Objections to the Report and Recommendation ("R&R") were due by August 22, 2011. No objections have been filed and, on August 22, 2011, the Commissioner filed a letter waiving the right to object. (Doc. 14). After review, the R&R will be adopted.

**Discussion**

When neither party objects to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report, under de novo or any other standard. Thomas v. Arn, 474 U.S. 140, 152 (1985); 28 U.S.C. § 636(b)(1)(C). Nevertheless, the Third Circuit Court of Appeals has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987), writ denied 484 U.S. 837 (1987); Garcia v. I.N.S., 733 F. Supp. 1554, 1555 (M.D. Pa.


1990) (Kosik, J.) (stating “the district court need only review the record for plain error or manifest injustice”). In the absence of objections, review may properly be limited to ascertaining whether there is clear error that not only affects the rights of Plaintiff, but also seriously affects the integrity, fairness, or public reputation of judicial proceedings. Cruz v. Chater, 990 F. Supp. 375, 377 (M.D. Pa. 1998) (Vanaskie, J.).

Plaintiff filed an application for disability and disability insurance benefits in April and May, 2008, alleging disability since January 31, 2005, due to several emotional and physical conditions. (TR. 110-141). After her request for benefits was denied at the initial level, she filed a request for a hearing before an Administrative Law Judge (“ALJ”). (TR. 10, 59-64, 68). A hearing was held on November 17, 2009, which resulted in a decision, unfavorable to Plaintiff, being issued on January 21, 2010. (TR. 7-58). Plaintiff then requested review by the Appeals Council, which denied review on November 20, 2010, making the decision of the ALJ final. (TR. 1-6). On January 21, 2011, Plaintiff appealed to this Court. (Doc. 1). Plaintiff filed a brief in support of her appeal on June 20, 2011. (Doc. 9). The Commissioner filed an opposing brief on July 27, 2010. (Doc. 12). The Magistrate Judge issued a Report on August 3, 2011, recommending that the matter be remanded to the Commissioner for further review. (Doc. 13). On August 22, 2011, the Commissioner filed a letter waiving its right to file objections to the R&R. (Doc. 14).

Upon review of the present appeal, it is concluded that the Magistrate Judge has not erred in recommending that the case be remanded to the Commissioner. The Magistrate Judge thoroughly reviewed the ALJ’s decision and determined that he failed to provide an explanation for rejecting the opinions of Plaintiff’s two treating physicians. (Doc. 13). The Magistrate Judge

found that substantial evidence does not support a finding that Plaintiff is not disabled and he recommends remand for the ALJ to more adequately address the opinions of the Plaintiff's treating physicians and indicate his reasons for rejecting their opinions. (Doc. 13, pgs. 22-25). Having received no objections, the Magistrate Judge's Report and Recommendation will be adopted. The matter will be remanded to the Commissioner for further consideration. An appropriate Order follows.

Date: August 24, 2011

  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAWN STAUB,  
Plaintiff

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,  
Defendant

CIVIL ACTION NO. 3:11-153


(JUDGE NEALON)

(MAGISTRATE JUDGE CARLSON)

ORDER

AND NOW, this 24<sup>th</sup> day of August, 2011, **IT IS HEREBY ORDERED THAT:**

1. Plaintiff's appeal is **GRANTED**.
2. The Magistrate Judge's Report and Recommendation (Doc. 13) is **ADOPTED**.
3. The matter is **REMANDED** to the Commissioner for further action.
4. The Clerk of Court is directed to **CLOSE** this case.



United States District Judge